

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 39 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF WEALTH TAX

Versus

GORDHANBHAI J PATEL

Appearance:

MR M.J. THAKORE, instructed by MR MANISH R BHATT for Petitioner
MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

Date of decision: 28/01/97

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The Income Tax Appellate Tribunal, Ahmedabad
Bench "C" has referred for the opinion of this Court the following question under Section 27 of the Wealth Tax Act, 1957.

"Whether, on the facts and in the circumstances

of the case, the finding of the Appellate Tribunal that, inspite of the partition effective on 21st May, 1962 there was a Hindu undivided family of Shri Gordhanbhai Jethabhai Patel and his unmarried daughter and consequently addition of gift amount in the wealth of the assessee individual was not justified is correct in law?"

It is pointed out to us that in the assessee's own case for the Assessment Year 1968-69, an identical question was referred for the opinion of this Court and this Court (Coram : G.T.Nanavati,J. as His Lordship then was and S.D.Dave,J.) by their opinion dated 7th October, 1992 - reported in 203 I.T.R 706, holding that the Tribunal rightly held that, in spite of partition, there was a Hindu Un-divided Family of Gordhanbhai and his unmarried daughter and consequently the gifts made to the H.U.F could not have been included in the wealth of the assessee, answered the said question in the affirmative that is against the Revenue. For the same reasons as are given in the opinion of this Court in the assessee's case reported in 203 I.T.R 706, the question referred to us is answered in the affirmative, that is against the Revenue and in favour of the assessee. The reference stands disposed of accordingly with no order as to costs.
